

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CATALINA DAVIS,)	
Plaintiff)	
)	
v.)	Civil Action number 05-30112-MAP
)	
CARABETTA,)	
Defendant)	

OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION

Defendant OPPOSES Plaintiff's Motion for Reconsideration of the Court's order requiring her to pay costs incurred as a result of her failure to attend at own deposition for, among others, the following reasons:

1. This issue was originally submitted to the Court by the Defendant in the form of a Motion for Sanctions and Affidavit in Support thereof on March 12, 2006.
2. Plaintiff failed to appear in Court as scheduled on March 16, 2006.
3. On March 30, 2006 this matter was argued before the Court. Plaintiff was present and represented by Counsel.
4. The Court granted leave for the Plaintiff to file late a written Opposition to Defendant's Motion for Sanctions and an Affidavit in Support thereof.
5. On April 25, 2006 the Court entered Orders with the benefit of argument and full submissions by both parties.
6. Plaintiff's Motion for Reconsideration is untimely filed, more than ten (10) weeks after the entry of the Court's Order.
7. Plaintiff raises no issues in her Motion which were not previously litigated. To the extent that the Motion can be viewed as raising new issues, these were known to the Plaintiff at the time of her original filing.
8. Plaintiff's current affidavit is at odds with her prior affidavit.
9. Plaintiff's current affidavit is at odds with her testimony at deposition. In particular, the Defendant refers the Court to Plaintiff's Affidavit sworn to and dated July 7, 2006 paragraph 4. where the Plaintiff states she has no job and no source of income but her social security check. Defendant further respectfully directs the Court's attention to Plaintiff's deposition dated June

27, 2006 page 16 lines 22 – 24 and page 17 lines 1 – 5 where the Plaintiff admits to working presently. Appendix 1.

For the foregoing reasons, among others, the Defendant respectfully requests the Court to DENY Plaintiff's Motion for Reconsideration.

Respectfully Submitted,

July 21, 2006

s/s Ralph Carabetta
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1 Q Did you have any trouble with any of your co-workers?

2 A I didn't have no co-workers.

3 Q Did you communicate with any of your bosses?

4 A Just one. *have you had this job?*

5 Q Do you recall that person's name?

6 A No. *when did you start looking for this job?*

7 Q Do you recall who it was that told you that you could
8 no longer work for Source One? *pany?*

9 A No, but I think it was the head person that owns the
10 company.

11 Q You don't remember a name? *about this job?*

12 A No. *don't know. I didn't contact, it's called Career*

13 Q Were you angry? *opportunities, they look for the job, and*

14 A No. *just go.*

15 Q Your testimony is from that day until the present you
16 have not actively looked for a job, is that true?

17 A I looked for a jobs, but I never filed for taxes, and
18 I volunteered places. *ss. Rehab.*

19 Q Did you ever look -- when you left Source One, did
20 you look for a paying job?

21 A No. *looked, but I'm not getting hired, so I'm not*

22 Q Do you recall the last time it was that you looked
23 for a paying job? *look now, because they do that.*

24 A I just -- I work now, that's what I said the first

1 time.

2 Q Where are you working now?

3 A Adams & Adams, a cleaning service.

4 Q How long have you had this job?

5 A About three weeks, almost a month.

6 Q When did you start looking for this job?

7 A I went to a company to look for it.

8 Q When did you contact that company?

9 A I've been having -- they were helping me to look for
10 a job.

11 Q When did you contact them about this job?

12 A I don't know. I didn't contact, it's called Career
13 Employment Opportunities, they look for the job, and
14 you just go.

15 Q And where is this Career --

16 A Boston Street in Springfield, Mass.

17 Q Are they affiliated with the State?

18 A Yes, they're with Mass. Rehab.

19 Q Up until this point you had not actively been looking
20 for a job, is that true?

21 A I looked, but I'm not getting hired, so I'm not
22 pushing the issue, so I went through that program. I
23 don't have to look now, because they do that.

I just want to make clear that when